

Approved as Submitted: January 14, 2004

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – DECEMBER 10, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the special meeting to order at 6:03 p.m.

ROLL CALL ATTENDANCE

Present: Mayor/Agency Chairperson Kennedy
Council/Agency Members Carr, Chang, and Tate.
Arriving Late: Council/Agency Member Sellers (arrived at 6:06 p.m.)

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 1

2.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957
Public Employee Performance Evaluation: City Attorney
Attendees: City Council, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/ Chairperson Kennedy opened the Closed Session items to public comment. No comment being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to Closed Session at 6:05 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairperson Kennedy announced that closed session discussion of the Performance Evaluation for the City Attorney would continue after the meeting.

OTHER REPORTS

Council Member Carr reported that the Economic Development Committee met to review the RFPs for the Police Department building on Main and Monterey, and after reviewing additional information submitted today, they had hoped to come to the Council with a recommendation at the December 17 meeting. He reported that the Committee will not be ready to make a recommendation at that time, and will be waiting until January to bring their recommendations to Council for consideration.

Council Member Tate stated that the Committee will be having conversations with the RFP submitters to try and pin down what they are going to bring to the downtown area and the RDA.

Council Member Sellers expressed concern that the delay of a month will have an impact on the ability to get the project underway.

Council Member Tate responded that this would probably be the case, but feels that it is important to get the information so that good decisions can be made.

Council Member Sellers asked Council Member Tate if he had intended to state that they would look at what the project could bring to the City revenue, rather than the RDA?

Council Member Tate responded that, yes that would be taken into account in their decision.

Council Member Carr stated that once the Council makes their selection of the RFP, the submitter will get time to negotiate. The time delay should not be a problem since they do not have access to the building at this time anyhow; and he feels that an additional discussion session with submitters is necessary.

PUBLIC COMMENT

Mayor Kennedy returned to the Public Comment during the Water Rates workshop, after realizing that he had overlooked this section of the agenda earlier in the meeting.

There being no public comment on items not on the agenda, the public comment was closed.

City Council Action

CONSENT CALENDAR:

City Manager Tewes withdrew item #2 from the agenda, and will bring it back to the Council at the December 17, 2003 meeting.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1 and 3 - 5, as follows:*

1. **PARKS AND RECREATION COMMISSION REQUEST FOR AN ANNUAL JOINT MEETING WITH THE CITY COUNCIL.**

Action: ***Directed** City Clerk Staff to Schedule a Joint Workshop of the City Council and the Parks and Recreation Commission.*

2. **ASSEMBLY BILL 1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2002-2003.**

Action: ***Withdrawn** from agenda by City Manager. To be brought back to Council on 12/17/03.*

3. **APPROVE TIFFIN METAL PRODUCTS AS SOLE SOURCE VENDOR FOR EVIDENCE AND GUN LOCKERS FOR THE NEW POLICE FACILITY.**

Action: ***Authorized** the City Manager to Approve a Purchase Order in the Amount of \$26,997.55 to Tiffin Metal Products Company for the Furniture, Fixtures and Equipment (FF&E) at the New Police Facility.*

4. **APPROVAL OF UPDATED JOINT POWERS AGREEMENT WITH THE BAY AREA EMPLOYEE RELATIONS SERVICE (BAERS).**

Action: ***Authorized** the City Manager to Execute the Agreement.*

5. **RESOLUTION ADOPTING AMENDMENT TO DEFERRED COMPENSATION PLAN WITH HARTFORD LIFE INSURANCE COMPANY.**

Action: ***Adopted** Resolution No. 5748 Amending the Deferred Compensation Plan with Hartford Life Insurance Company.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang, the Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 6-7, as follows:*

6. **SALE/ACQUISITION OF CITY OWNED LAND TO THE REDEVELOPMENT AGENCY FOR THE FUTURE LIBRARY.**

Action: 1) **Authorized** the Executive Director and City Manager to do Everything Necessary and Appropriate to Execute and Implement all Related Documents for the Sale/Purchase of the Library Site for \$1,700,000; and 2) **Authorized** the City Manager/Executive Director to do Everything Necessary and Appropriate to Convey or Accept the Full Interest in the Subject Property.

7. **APPROVED MINUTES OF JOINT SPECIAL AND REGULAR CITY COUNCIL, SPECIAL REDEVELOPMENT AGENCY, AND MORGAN HILL FINANCING AUTHORITY COMMISSION MEETING OF NOVEMBER 19, 2003.**

Redevelopment Agency Action

CONSENT CALENDAR:

Action: On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang, the Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 8, as follows:

8. **WALNUT GROVE PLANNED UNIT DEVELOPMENT (PUD).**

Action: 1) **Authorized** The Executive Director To Execute A Contract With ROEL Automotive Advisory Group For The Development Of PUD Guidelines, In An Amount Not To Exceed \$65,790 And Optional Supplemental In Services Not To Exceed \$9,505 For A Total Of \$75,295; and 2). **Authorized** The Executive Director To Execute A Contract With MIG For Public Meeting Facilitation In An Amount Not To Exceed \$10,300.

City Council Action

OTHER BUSINESS:

9. **WATER RATES WORKSHOP**

Director of Finance Dilles presented the staff report, reviewing charts and graphs provided to the Council to show them the trends of water rates revenue versus expenditures.

Mayor Kennedy interrupted Mr. Dilles to return the meeting to public comment for items not on the agenda. No comments were received, and the public comment was closed.

Council Members Tate and Carr then reported regarding the RFP's for the current police department building (see Other Reports, above), and then Mr. Dilles continued his presentation of the staff report for the Water Rates workshop.

In summary, Mr. Dilles reported that the perchlorate problem is creating a projected added cost to the City of approximately \$3.2 million dollars. The deficit of \$3.1 million shown on the charts and graphs

is directly attributable to the perchlorate costs. Without the perchlorate contamination problem, the current water rate structure would be adequate to cover the future financial situation without any difficulty. In addition, the City is working to find a way to stimulate conservation by its largest water users, and is proposing a three tiered rate to be applied to customers with irrigation water meters to encourage drought resistant plantings and water conservation.

Council Members expressed their desire that the costs connected to the perchlorate contamination should be clearly indicated on water billings so that the public is aware that the reason for these additional costs for water is directly attributable to the perchlorate contamination.

Council also directed staff to set up a billing structure to delineate added costs for water due to perchlorate contamination, and to track the monies collected from rate payers for these costs, so that there can be some form of rebate or reimbursement to customers once the funds are collected from Olin Corporation for the perchlorate costs.

Council also directed staff to consider use of the reserve funds to mitigate some of the increased costs and reduce the amount of increased costs to customers. The reserves are designed for that purpose, and large balances of reserves should not be kept at the expense of the water customers. The expenses the City is incurring related to perchlorate are expected to be recovered from Olin in the future.

Council consensus was that incentives should be created to encourage water conservation and the planting of drought tolerant landscaping, especially by the largest users of water.

Council consensus was that the staff should investigate the use of water by large local irrigation accounts and return with a rate structure that would encourage them to use, and or replace plantings with, drought tolerant plants. Staff was directed to design a rate structure that would reward this type of action with rebates or incentives that would encourage conservation rather than using a punitive approach.

Council consensus was that the irrigation water customers that are public entities, such as the City and the school district, should have a special rate applied to them because they are required to maintain facilities for public uses (such as parks and playing fields) that require lots of turf and provide a public service to a large number of citizens.

Mayor Kennedy opened floor to public comment.

Mr. Mark Grzan cautioned that water rates affect everyone in the city, and that the Council needs to be careful about how they implement a plan. He stated he is happy to see the Council moving in the direction of water conservation. He also encouraged them to take a long term and comprehensive approach; and to review what other agencies are doing in their approach to this problem, since some of them may be doing things we don't know about. He stated that the issue of perchlorate is a particular concern to him. He feels that if we did not have this pollution problem, we would not have any rate problems. He urged the Council to be cautious in their approach, since there may be more perchlorate

problems that arise in the future. The water rates have increased significantly, and he urged the Council to take a long term approach to this and to have Olin pay for the costs we already see.

There being no further comment, the public comment was closed.

Council Member Sellers continued the discussion asking if the costs for water filtration will be continuing in the future.

City Manager Tewes responded that this issue will have to be determined by the Council on a year by year basis. As water demands have continued to grow the capacity to supply that demand has remained fixed. In order to meet the growing demand, wells currently off-line due to contamination will have to be brought back on-line. Since Council has directed that no wells with contamination can be used, the perchlorate will have to be removed so that these wells can be made available again.

The City Attorney stated that the City is diligently pursuing compensation from the Olin Corporation, but explained that there are many agencies involved in this process, which requires coordination, and much research to be completed before the full scope of the problem can be defined. Legal options to compel Olin to pay for the city's costs are being studied, and a strategy report will be made to the Council in January. The City is taking an aggressive, but not reckless, approach; and is working to obtain the scientific evidence to back up the City's legal position.

Council Member Chang expressed concern about a gap between income and outgo if we keep going as we are, and asked Mr. Dilles to calculate and report back on that possible gap between income and out go without the perchlorate problem.

Mayor Kennedy allowed Mr. Grzan to make a final comment.

Mr. Grzan stated that he sees the operating reserves as unanticipated operating costs. He suggested that perhaps the rate stabilization and capital costs are just unanticipated expenses that come up during the year. He sees it as a \$5 million draw down of costs.

Mr. Dilles responded that these are not really costs. They are reserves that the City is required to have set aside. Some is being spent and some set aside in case it is needed.

Council discussion was concluded and the workshop was closed.

- Action:** *By consensus the City Council **Directed** staff to*
- 1) Set up water bills to delineate added costs due to perchlorate issues;*
 - 2) Create incentives to encourage water conservation and drought tolerant plantings, especially by largest water consumers. The rate structure should be designed to reward this type of action instead of being punitive;*
 - 3) Design a special rate structure for irrigation water customers that are public entities, such as the City or School District, providing facilities for public usage;*

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- 4) *Track monies collected from customers to cover the costs of perchlorate issues so that there can be some form of rebate or reimbursement when Olin reimburses the city for these costs; and*
 - 5) *To consider ways to use the existing reserve funds to help mitigate the increased costs to customers for perchlorate issues; and not to hold excessively large balances of reserves at the expense of customers.*
 - 6) *To report back on the possible gap between income and outgo, even without the perchlorate problem.*

10. SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND REDEVELOPMENT AGENCY VICE-CHAIR.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Selected** Council Member Sellers as Mayor Pro Tempore.*

Action: *On a motion by Agency Member Tate and seconded by Agency Member Carr, the Agency Board unanimously (5-0) **Selected** Agency Member Sellers as Mayor Pro Tempore*

11. REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES

Council Member Sellers asked to be placed on the Economic Development Committee. He stated that he understands that there needs to be a transition to allow stabilization of the committee. He requested that there be a transitional method developed to allow rotations on and off this Committee.

Council Member Tate stated that he would like to see Council Member Sellers replace him on the EDC, but agrees that there needs to be a transition process developed. He stated he would work on such a process and report back to the Council on how this could best be accomplished. Mayor Kennedy asked that Council Member Carr assist with this project.

Council Member Chang stated her desire to rotate onto the EDC.

There was a request to add the Library Sub-committee to the list of assignments.

Council Member Tate stated he views himself as the liaison to the Library Commission.

Mayor Kennedy stated he did not believe that had been the Council's intent.

Council Member Sellers noted that the Measure P and Downtown Task Force committees can be removed as they are no longer in existence.

Council Member Carr reported that the County Pollution Prevention committee and the Joint Venture Silicon Valley Economic Development Round Table should no longer be on the list.

Council Member Chang reported that she has now been appointed as the Chair of the South County Regional Wastewater Authority (SCRWA).

Mayor Kennedy stated that he would meet with Council Services and Records Manager Torrez to establish the list of Outside Agency assignments for the Council.

Action: *Council consensus was that the Mayor would meet with Council Services and Records Manager Torrez and **Finalize appointments** of Council Members to serve on the various outside agencies; and **Directed** the City Clerk to notify the appropriate agencies of assignments.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Council Member Sellers requested that the Council consider some version of the Patriot Act, and stated he will bring the item back for Council information, by next week if possible.

Council Member Chang requested that the Legislative Subcommittee review Senate Bill 2 (SB2), which addresses mandatory health care requirements for all businesses with 50 or more employees.

RECONVENE TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 8:37 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 9:49 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced there were no reportable actions.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:50 p.m.

MINUTES RECORDED AND PREPARED BY:

MOIRA MALONE, DEPUTY CITY CLERK